

**AUCTIONEER BOARD MEETING  
MINUTES  
OCTOBER 25, 2005**

**PRESENT:** Jay Clarke, Alan Hager, Patrick McNamara, Mark Shain, Marie Skic, Carl Theorin, and Timothy Sweeney

**STAFF PRESENT:** Tim Wellnitz, Bureau Director; Ruby Jefferson-Moore, Legal Counsel; Pat Schenck, Program Assistant; and Division of Enforcement Staff.

**GUESTS:** Barbara Hager  
Tony Driessen, Attorney, Quarles & Brady

**CALL TO ORDER**

Mark Shain, Chair, called the meeting to order at 9:15 a.m. A quorum of seven members was present.

**AGENDA**

**Addition to Agenda:**

- Add article regarding on-line auction sales by Richard Lust – under Miscellaneous Information/Correspondence –Item J. 1.

**MOTION:** Jay Clarke moved, seconded by Alan Hager, to adopt the agenda as with addition. Motion carried unanimously.

**APPROVAL OF MINUTES JULY 19, 2005**

**Amendments to Minutes:**

Correction on page 3 of 7 - Second paragraph under "PRACTICE" - Sentence was rewritten.

**MOTION:** Jay Clarke moved, seconded by Alan Hager, to approve the minutes of July 19, 2005 as amended. Motion carried unanimously.

**ADMINISTRATIVE REPORT  
TIM WELLNITZ, BUREAU DIRECTOR**

Mr. Wellnitz introduced himself as the new Bureau Director of the Business and Design Professions, provided his phone number, e-mail address, and gave a brief background on his professional experience. Mr. Wellnitz reiterated the Department's policy regarding the toll free 800 number for Board members only.

### **Hotel Reservations 2006**

Mr. Wellnitz reported on the Department's new hotel policy for 2006. The Department has selected the Comfort Inn & Suites at 4822 E. Washington Ave in Madison for all future hotel reservations in 2006.

### **Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules and Press Releases**

Noted.

### **PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT**

None.

### **LEGISLATION AND ADMINISTRATIVE RULES**

#### **Consideration and Approval of Proposed Rules Relating to Continuing Education Requirements for Auctioneers - RL 128 - Educational Program**

Ms. Jefferson-Moore reported on the proposed draft of the RL 128 rules relating to continuing education requirements for auctioneers.

**MOTION:** Jaye Clarke moved, seconded by Marie Skic, to recommend that the Department promulgate the rules relating to RL 128 Educational Program as drafted. Motion carried unanimously.

A public hearing on the proposed rules may be scheduled on January 31, 2006 at the Auctioneer Board meeting.

#### **(FYI) Scope Statement Relating to Identification and Approval of the Subject-Matter Areas or Topics for Continuing Education Courses Required for Auctioneers – Published August 15, 2005**

Information only.

#### **Status of Request for Legislation Requiring Auction Company Representatives to take Continuing Education 480.08(6)**

Mr. Wellnitz reported that the Department's Executive Assistant is in the process of having a legislative draft written for the Board's review.

**Review and Discuss Request for Legislation Relating to Requiring Auction Clerks/Cashiers to be Employed by Auctioneers or Auction Companies**

Patrick McNamara addressed the Board regarding auction clerks/cashiers working at auctions who are not employed by the auctioneer or auction companies and the problems associated with banks hiring clerks to work at auctions. The person receiving the money from an auction should have an auctioneer's license.

The Board agreed that a clerk handling the funds at an auction should be an employee of the auction company or have an auctioneer's license and that persons in violation be referred to the Division of Enforcement.

**MOTION:** Carl Theorin moved, seconded by Timothy Sweeney, to withdraw the request for legislation regarding requiring auction clerks/cashiers to be employed by auctioneers or auction companies. Patrick McNamara voted no. Alan Hager abstained. Motion carried.

**RECIPROCAL CREDENTIAL**

**Review and Provide Recommendations to the Department Relating to Reciprocal Agreement (State of Virginia)**

Ms. Jefferson-Moore addressed the Board regarding a reciprocal agreement with the State of Virginia.

**MOTION:** Carl Theorin moved, seconded by Patrick McNamara, to approve entering into a reciprocal agreement with the Commonwealth of Virginia as presented. Motion carried unanimously.

**PRACTICE QUESTIONS**

**Review and Decision Relating to Whether an Auctioneer may Deny the Right to Bid**

The Board discussed an instance where an auctioneer denied the right to bid. The Board has concluded that no violation occurred.

**MISCELLANEOUS INFORMATION/CORRESPONDENCE**

**NALLOA News – August 2005**

The Board is interested in sending a representative to NAA's annual meeting rather than to the NALLOA meeting.

**MOTION:** Alan Hager moved, seconded by Marie Skic, to *not* send a Board representative to the Mid-Winter Meeting and NAA Conference in Anchorage AK on February 5-8, 2006. Motion carried unanimously.

**Review and Discussion of Proposed Decision – In the Matter of a Petition for an Administrative Injunction Involving Jerry L. Fuss, Respondent. [Proceeding Before the Department of Regulation and Licensing]**

Informational item.

**Article Regarding On-Line Auction Sales by Richard Lust**

Informational item.

**NEW BUSINESS**

Mr. Wellnitz reported that today was Maria Skic's last meeting with the Board and thanked her for her many years of service on the Board and to the citizens of Wisconsin. Chair, Mark Shain also expressed his thanks to Marie for her years of service on the Board.

**VISITORS COMMENTS**

Tony Driessen addressed the Board to answer a question on complaints about eBay and other on-line auctions. The Trust and Safety Section on eBay is highly staffed to address problems or complaints.

**CLOSED SESSION**

**MOTION:** Carl Theorin moved, seconded by Jaye Clarke, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Department or the investigation of charges against such a person. Specifically, the Board intends to deliberate on stipulations, administrative warnings, case closings, and monitoring cases. Motion carried by a roll call vote: Marie Skic-yes; Jay Clarke-yes; Patrick McNamara-yes; Alan Hager-yes; and Mark Shain-yes; Timothy Sweeney-yes; Carl Theorin-yes. Motion carried unanimously.

Open Session recessed at 10:51 a.m.

The Board deliberated on a Case Closing and consulted with legal counsel in closed session.

### **RECONVENE TO OPEN SESSION**

**MOTION:** Marie Skic moved, seconded by Carl Theorin, to reconvene into Open Session at 11:28 a.m. Motion carried unanimously.

### **VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE**

### **CASE CLOSINGS**

#### **04 AUC 004**

**MOTION:** Jaye Clarke moved, seconded by Patrick McNamara, to close case **04 AUC 004** for prosecutorial discretion (P2). Carl Theorin, Case Advisor. Motion carried unanimously.

### **ADJOURNMENT**

**MOTION:** Alan Hagar moved, seconded by Carl Theorin, to adjourn the meeting at 11:30 a.m. Motion carried unanimously.

**Next Meeting January 31, 2006**

#### **Suggested Agenda Items:**

- Schedule public hearing for RL 128 – Continuing education rule
- Travel - NAA'S Meeting in July, 2006 – Nominate Delegate